9/10/2021

TO: The Honorable Nelson S. Roman

RE: Motion for Disqualification of the Chamber
Oral argument requested.

This letter is to notify the Courts that we request that by the next Status Conference, Sept. 13, 2021, we will be given an opportunity to address the Court in person regarding why, we think, it is appropate according to the law, that this Chamber should Disqualify himself according to 28 U.S.C. § 455 (A).

We want to emphasize that this motion is not instead of our plane motion to disqualify this Chamber according to 28 U.S.C. § 144 (personal Bias and prejice). However such a Motion will require to deal the merit of our case. As well as detailing the procedure of our case Until Now. Such a motion can not Be Made by a 3rd party, (like this motion.) In any case it is ~~not appo~~ more apporite to begin with the 28 U.S.C § 455(A) Motion Since once this is accepted the 28 U.S.C. § 144 is unecessary.

(applicable note)

28 USC Section 455 (Disqualification of Justice, Judge or Magistrate Judge) in Subsection (A) States as follows: "Any Justice, Judge, Magistrate Judge of the United States Shall disqualify Himself in Any Proceeding In which His Impartiality Might Reasonably Be Questioned"

Subsection (D) States as follows:
"For the Purpose of this Section the following words or Phrases Shall have the Meaning indicated: (1) Proceeding Include Pretrial, trial, Appellate Review or Other States of Litigation."

In the Recent case US. V. Wells, NO 18-852-CR April 1, 2021, The 2nd Circuit re established the already well established Rule that the test to require dis Qualification is not if there is Proof of actual bias or Prejudice, rather the test is if the Impartiality of the Chambers Made be "reasonably be Questioned". Because of Inadequity of the legal research System here, I am prevented from elaborating as needed regarding the applicable law. Nevertheless, it is clear enough to be applied to the Current Situation.

Relevant Facts

Public Records indicate that this Chamber's Public Service includes:

1. Serving as a Assistant District Attorney For the Kings County in New York From August 1989 until December 1991
2. Serving as a Special Assistant District Attorney For New York County From January 1992 up until March 1994
3. Serving Again as Assistant District Attorney For the Kings County, in New York From April 1994 up until January 1995.

It is only the last public Service Mentioned Namely, the 1994 Service in Kings County as a Assistant District Attorney, that is Relevant here. We think this Public Service at this particular Place and time is enough Even from an objective point of view to cast doubt about the possibility of impartiality of this Chamber Regarding our case.

We will explain why.

Rabbi Sholomo Helbans (Also known as Erez Sholomo Elbarnes) a prominent anti Zionist leader, and well known advocate for original Judism Immigrated to the U.S along with his family and Community.

In November 1990. With him also Immigated to the U.S. his Son Nachman, at that time a boy age 9, now the main defendant in this Case.

The Prosecution of Zionist Activists against the late Rabbi Helbrans and his Community only Intensified once relocated to the U.S. Especially via negative Israeli media Coverage. This negative Israeli Media Coverage created the Condition for the perfect Storm.

It was in Feb. 1992 that the late Rabbi Helbrans gave Refuge to and abused child named Shai Raven (Also known as Shai Fina) that the Israeli Media Jumped on the opportunity and called it a "Kidnapping". the New York Media, Including the New York Times and New York Post, that are both known as Platforms for various Zionist lobbyists. they Follow the Israeli Media and also labeled the assistance of my father to a Runaway abused child as "Kidnapping" An orthodox Rabbi involved in "Kidnapping" was on Israeli Sensational headlines.

We have attached a Booklet/Article written by the late Journalist + Community Activist Jacob Y. Zick in 1997 detailing much of the story as Exhibit A. This booklet is a Sample collection of documents of the opinions of many orthodox leaders and Objective legal professionals about the case.

At the beginning the Federal government took the case, they ISSued Hosands of Subpoenas at the end of the day they decided not to prosecute the case. presumbly because the Federal Case law is very clear that the Consent of mentune child (defined by the 2nd Circuit no later than the age of (c) Is a Complete defense and exclude any possibility of "kidnapping" Charges.

The Federal govt transfered the case to the Kings County district Attorney MR. Charles Hines. that under pressure took the case and in Feb. 1993 the late Rabbi Heilbrans and his wife Marlene were arrested and charged with kidnapping 2° and Conspiracy 4°,

The decision to file kidnappy Charges for Assisting a Runaway child was unprecedated, Highly Controversal Among the legal Community. it was based on extreme distortion and Manipulation of the language of the New York law, & A language not found in the Federal law

The legal basis for the Charges was so indecent the last action the Suprem in of the day the prosecution agreed to withdraw the kidnapping charges In return Alfred Plea on the Conspiracy Charge and agree upon Sentence that will not include jail time. Rabbi Heilbrans and wife agreed to the Deal.

It was not until April 1994, the same Month that this Chamber joined the Kings County District attorney that the State turned from Bad to worse.

In yet another unprecedented and legally Controversial Move, the Kings County District Attorney office decided to withdraw the plea offer after agreed by the Judge and Sworn in of the Jury.

I will list pursuant to Page 24 of Exibit A* that Professor Stanley Neustader Criticized both the initial decision of Kings County to file kidnapping Charges and the Second decision to withdraw the plea as Moves motivated by bias + prejudice against Hasidism. There is Ample document to Support it! Some of them mentioned Exhibit A. I will also mention Exhibits B+C two essays by Prof. Bernard Grushka PHD that concludes the actions of Charles Hynes and the office Especially from April 1994 were motivated by bias + prejudice. My father the late Rabbi Hellmans Expressed the Same opinion Mentioned in Article attached AS Exhibit D. In the last paragraph my father Clearly

* All Page #'s are Referred except the Cover Page.

Mentaned Selectin Prosecution it was also Mentaned by an outside legal professional Attached As Exibit E. In the Second Paragraph She clearly Mentaned overseas prosecution.

After April 1994 Hearings Pre trial proceedings, each of them were accompanied by Moves by District Attorney, Considered by experts as bias, In october 1994, Rabbi Helbans and His Wife Stard trial, I will pinpoint to Page 31 of Exhibit A, at Seq. Why this trial was Considered by Many as unjust. Rabbi Helbans and His wife were convicted.

While Mrs Helbans was Sentenced by the Judge, Rabbi Helbans, at the Expected request by the District Attorney a very Harsh Sentence. On Nov 1994. A Sentence that was later Reduced by the Appellate Court that describes Rabbi Helbans Motives were by love + affection.

The Defendant Rabbi Helbans remembers that the District Attorney Charles Hynes Commented to the Public Media Following the Sentence, He would rather fell from his Chair then let my father be released pending Appeal. My Father dacded then to Concentrate on the Appeal it self and withdrew his Application

for Bail/Release. As a result of the Conviction Rabbi Helbrans was Deported to Israel, but Manged to Escape and Return to Canada.

In ~~Objection~~ Federal Proceedings before the Canadian Immigration & Refugee Board in 2003 the Board Hear MR. Gilles Ethier, Referred to the trial proceedings in New York He Stated Among others:

- "The Evidence shows that some influential Members of the Zionist community in Brooklyn put pressure on the District Attorney to ensure that the Rabbi was convicted and received a very Harsh sentence" (See Exhibit F, Page 7, Point 19)

His Factual Findings and Judicial Findings were upheld by the Canadian Federal Court despite Vigorous opposition of Canadian Juice Master (Pressured by Israel) See Exhibit G, Canada v. Helbrans 2005 FC 70 2005/01-21

New Fast Events to our case

Except the New York case of the late Rabbi Helbrans Never in history in the U.S. Resistance to a Romany child was deemed As "Kidnapping"

Not in Any State Preeding and ~~not~~ of course not in Federal level. We can not go into small details of legal anlysts because countless impediments & restrictions. However I will mention there is a 2nd circuit case from 2003 (I can not recall the case, it is someone v. Aschroft) That

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Based on the New York Court decision of the late Rabbi Helbrans the described New York kidnapping in the 2nd is a Non violent Crime "that does not meet the generic definition of kidnapping" But a similar proceeding in the 9th Circuit (No. 10-10470 US v. Marquez Lobos) the Court were not able to find a single case in Arizona that the consent of the child was not a defense for kidnapping. the threat is very simple the trial of the late Rabbi Helbrans was a controversial Historic event, motivated by bias decisions of the King's County district attorney Only our case is the Second in a Row to be charged with kidnapping charges for Assisting Runaway Children. Its Quite Remarkable that this time the defendants are again from the same Community and (Family) and even More Remarkable that the Chambers have to decide the question, is

Former Assistant District Attorney, for the same office that took the initial ~~[illegible]~~ controversial decision against the late Rabbi Helbrans in the same time that the Charitable Served the office - Namely from April 1994 to the end of the year. ~~to prove that~~ ~~our~~

TO prove that our cases are real we will attach as exhibit H a motion written at the request of Matiyahu Malka. (With the Help of the Screen Sharing function, now desabled for some reason his lawyer was not filing it on that time but is clearly mentioned in his legal arguments that is shared by us the co-defendants the contention about the legal defination of kidnapping. I will pin point from page 15 to 26. This was written on Feb 18 2021 before any of us had knowledge the concerned public service of this chamber, ~~[illegible]~~

We will also attach I, a 76 Page Document drafted by us in Nov. 2018 addressed to the Israeli government that details our take on Religious and Political Prosecution

Intake by the State or Dorcel against our Comunity it Mentions in Short the Prosecution of the late Rabbi Melbrans, I will put to Page 29 and 30 and It goes all along up to the beginning of the current family conflict that ultimately led to the Rescue efforts by us.

TO Be clear it is not us that decided arbitrarily to bundle the late Rabby Melbrans case with our case. Rather it was the government that combined these two cases in a hateful document that they use as a reply to the Bail application of defendant Nachmen Melbrans back in May 27, 2020. ~~It~~ I will Pinpoint on Page 2, Footnote 1. Also in Prior Bail Application, a co-defendant Arron Rosner Back in Feb. 2019 at the oral arguments Mr. Sam Adelsberg, Make a great deal of the kidnapping connection of the late Rabbi Melbrans. It is also not us that decided to bundle all the 2 next persons ~~of their case~~ rather against the Comunity with our Case Rather it IS the government that decided in the above Mentioned document as well in the Speedy Motion.

To Include all allegations against Lefkowitz including a decision by Israeli Courts and articles from Israel Media mentioning the above hateful documents fact note 2 and 1 Includes our desire to take testimony in Iran as part of the Superseding Indictment. So it is not fair that the reasons leading for such a Request and also the basis for Procedure will be Bundled together

We can elaborate more if necessary we ask to be given an opportunity to address the DISQUALIFY In person, at the next Status Conference.

Because we were muzzled we have no way to know about the DISQUALIFY in an earlier stage. We were only notified by accident on August 22, 2021 and we immediately raised the issue - We think it is the interest of justice that Chamber Should disQualify itself and refer the case to the wheel for assignment.

We ~~este~~ apologize for any inconvenience, and appreciate your understanding.

NACHMAN S. HELBRANS

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MAYER ROSNER

MAYER ROSNER